

**SUMMARIZED MINUTES  
SCOTTSDALE CITY COUNCIL  
TUESDAY, JUNE 20, 2006**



**CITY HALL KIVA  
3939 N. DRINKWATER BOULEVARD  
SCOTTSDALE, AZ 85251**

**CALL TO ORDER**

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Tuesday, June 20, 2006 in the City Hall at 5:12 P.M.

**ROLL CALL**

Present: Mayor Mary Manross  
Vice Mayor Jim Lane  
Council Members Betty Drake, Wayne Ecton, Robert Littlefield,  
Ron McCullagh, and Tony Nelssen

Also Present: City Manager Jan Dolan  
City Attorney Deborah Robberson  
City Clerk Carolyn Jagger

**PLEDGE OF ALLEGIANCE** - Councilmember Drake led the pledge.

**INVOCATION** - None

**PRESENTATIONS/INFORMATION UPDATES** - Vista del Camino Back to School Clothing Program

**PUBLIC COMMENT** - None

**MINUTES**

SPECIAL MEETINGS  
June 6, 2006

REGULAR MEETINGS  
June 6, 2006

COUNCILMEMBER DRAKE MOVED FOR APPROVAL OF THE SPECIAL AND REGULAR MEETING MINUTES OF JUNE 6, 2006. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

NOTE IN ACCORDANCE WITH PROVISIONS OF THE ARIZONA REVISED STATUTES THE SUMMARIZED MINUTES OF CITY COUNCIL MEETINGS ARE NOT VERBATIM TRANSCRIPTS. ONLY THE ACTIONS TAKEN AND DISCUSSION APPEARING WITH QUOTATION MARKS ARE VERBATIM. DIGITAL RECORDINGS OF CITY COUNCIL MEETINGS ARE ON FILE IN THE CITY CLERK'S OFFICE.

## **CONSENT AGENDA      ITEMS 1-30A**

**1.      Pizza Express (Beer and Wine Bar) Liquor License**

**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 7 (beer and wine bar) liquor license for an existing location.

**Location:** 8108 E. Thomas Road

**Reference:** 40-LL-2006

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Customer Service Chief Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

**2.      Star Spangled Tavern (Restaurant) Liquor License**

**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location.

**Location:** 20751 N. Pima Road, Suite 100

**Reference:** 41-LL-2006

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Customer Service Chief Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

**3.      Kwik Mart (Beer and Wine Store) Liquor License**

**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 10 (beer and wine store) liquor license for a newly licensed location.

**Location:** 7620 E. McKellips Road, Suites 7 and 8

**Reference:** 42-LL-2006

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Customer Service Chief Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

**4.      Arizona Wine Outlet (Beer and Wine Bar) Agent Change**

**Request:** Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for an agent change for an existing series 7 (beer and wine) liquor license.

**Location:** 2515 N. Scottsdale Road

**Reference:** 43-LL-2006

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Customer Service Chief Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

**5.      Scottsdale Southern Area Residential Fee Reduction Program**

**Request:** Approve Resolution No. 6868 allowing continuation of the Residential Fee Reduction Program for one additional year.

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Connie Padian, Customer Service Chief Officer, 480-312-2664, [cpadian@scottsdaleaz.gov](mailto:cpadian@scottsdaleaz.gov)

**6. Extension of Downtown Covered Walkway and Façade Improvement Program and Commercial Fee Reduction Programs**

**Requests:**

1. Approve Resolution No. 6904 extending the end date of the Covered Walkway and Façade Improvement Program to June 30, 2008.
2. Approve Resolution No. 6905 extending the end date of the Downtown Fee Reduction Program to June 30, 2007.
3. Approve Resolution No. 6906 extending the end date of the Southern Area Fee Reduction Program to June 30, 2007.

**Related Policies, References:**

- Council approved Resolution No. 6695 on July 5, 2005 extending the end date of the Covered Walkway and Façade Improvement Program.
- Council approved Resolution No. 6696 on July 5, 2005 extending the end date of the Downtown Fee Reduction Program.
- Council approved Resolution No. 6697 on July 5, 2005 extending the end date of the Southern Area Fee Reduction Program.
- Council approved Resolution No. 6466 on April 5, 2004 allowing for the temporary reduction of specific development and building fees for a commercially zoned business properties in a designated area south of Camelback Road.
- Council approved Resolution No. 6468 on April 5, 2004 extending the Downtown Fee Reduction Program until June 30, 2005.
- Council approved Resolution No. 6423 on December 9, 2003, establishing the Covered Walkway and Façade Improvement Program.
- Council approved Resolution No. 6238 on January 21, 2003, establishing the Downtown Fee Reduction Program.

**Staff Contact(s):** David Roderique, General Manager, Economic Vitality Department, 480-312-7601, [droderique@scottsdaleaz.gov](mailto:droderique@scottsdaleaz.gov)

**7. The Reserve and Golf Club Scottsdale Abandonment**

**Requests:**

1. Abandon 967.36 feet of a 30-foot public utility and roadway easement along the north half of Morning Vista Lane Alignment, and 641.69 feet of the south half of Morning Vista Lane Alignment.
2. Abandon 2,594.51 feet of an 80-foot public utility and roadway easement (E. Via Dona Road Alignment) from 118<sup>th</sup> Street to 122<sup>nd</sup> Street.
3. Abandon 2,630.86 feet of a 60-foot public utility and roadway easement (E. Dale Lane Alignment) from 118<sup>th</sup> Street to 122<sup>nd</sup> Street.
4. Abandon 1,303.66 feet of a 60-foot public utility and roadway easement (E. Dale Lane Alignment) from 122<sup>nd</sup> Street to 124<sup>th</sup> Street.
5. Abandon 2,649.30 feet of a 110-foot public utility and roadway easement (120<sup>th</sup> Street Alignment) from the E. Via Dona Road Alignment to Dynamite Boulevard.
6. Abandon 1,586.98 feet of a 30-foot public utility and roadway easement along the western half of the 122<sup>nd</sup> Street Alignment from the E. Via Dona Road Alignment to Dynamite Boulevard.
7. Abandon 339.69 feet from the E. Dale Lane Alignment north of a 20-foot public roadway and utility easement.
8. Abandon 719.94 feet of a 20-foot public roadway and utility easement along the 124<sup>th</sup> Street Alignment from the E. Dale Lane Alignment north.
9. Adopt Resolution No. 6743 vacating and abandoning a public right-of-way.

**Related Policies, References:** 5-PP-2004 The Reserve Subdivision, 10-AB-2001 The Scottsdale Golf Club Abandonment

**Staff Contact(s):** Frank Gray, General Manager Planning and Development Services, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

**8. The Reserve Final Plat Approval**

**Request:** Approve Final Plat of a single-family subdivision of 51 residential lots with amended development standards located on a 202+/- acre parcel.

**Location:** N. 118<sup>th</sup> Street

**Reference:** 5-PP-2004

**Staff Contact(s):** Frank Gray, General Manager Planning and Development Services, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

**9. Construction Bid Award for Camelback Road Improvement Between 64<sup>th</sup> Street and 68<sup>th</sup> Street**

**Request:** Authorize Construction Bid Award No. 06PB118 to Hunter Contracting Company, the lowest responsive bidder, at their unit price bid of \$1,587,695.87.

**Related Policies, References:** On January 6, 2003 Council awarded Engineering Services Contract No. 2003-001-COS to Tri-Core Engineering for the design of improvements on Camelback Road between 64<sup>th</sup> Street and 68<sup>th</sup> Street.

**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)

**10. Construction Bid Award for Phase II of the Police/Fire Training Facility Improvements**

**Request:** Authorize Construction Bid Award No. 06PB119 to Howard S. Wright Constructors L.P., the lowest responsive bidder, at their lump sum bid of \$1,700,000 for construction improvements to the Police and Fire Training Facility.

**Related Policies, References:**

- On May 14, 2001 Council authorized Architectural Services Contract 2000-197-COS for a Police Department modeling, master planning and site evaluation study.
- On July 6, 2004 Council authorized design services contract 2004-100-COS for the design of improvements to the Police and Fire Training Facility.
- On August 29, 2005 Council authorized design-build contract 2005-144-COS for the design and construction of a fire training tower.

**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)

**11. CM@Risk Construction Services Contract Amendment for Phase II of the Spring Training Facility Project**

**Requests:**

1. Adopt Resolution No. 6938 authorizing amendment of CM@Risk Contract No. 2005-114-COS with Barton Malow Company at the guaranteed maximum price of \$7,148,858 (including construction contingencies) for Phase II of the Spring Training Facility Project.
2. Authorize a CIP Contingency Budget transfer in the amount of \$2,400,000 from the current year General Fund CIP Contingency to the Spring Training Facility CIP project (Account No. P0402).

**Related Policies, References:**

- Council approved CM@Risk Contract No. 2005-053-COS with Barton Malow Company for Project Pre-construction Services for Phase I and Phase II of the Professional Baseball Training Facilities project on May 3, 2005.
- Council approved CM@Risk Contract No. 2005-114-COS with Barton Malow Company for Construction Services for Phase I of the Professional Baseball Training Facilities Project on June 7, 2005.
- Development Review Board approved Case 5-DR-1997#3 for baseball training facility improvements at Indian School Park on March 24, 2005.
- Development Review Board approved Case 5-DR-1997#4 for a new clubhouse facility at Indian School Park on March 2, 2006.
- Council approved a Baseball Facilities Agreement with Scottsdale Charros and San Francisco Giants; Arizona Sports and Tourism Authority (AZSTA) Funding Agreement; and Final Design Services Agreement with HOK S+V+E on March 15, 2005.

**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov); Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)

Mayor Manross opened public testimony.

**Amy McAulay**, 8738 E Highland Av, 85251, expressed disappointment in how the Spring Training Facility on Hayden Road has been constructed. Ms. McAulay hopes the pedestrian tunnel will be reopened, and wondered if the ball fields will be open to the public.

**Lyle Wurtz**, 6510 E Palm Ln, 85257, opposes funding for projects like the Spring Training Facility.

Mayor Manross closed public testimony. City Manager Dolan confirmed the fields will be open to the public.

**12. Construction Services Contract Amendment for Phase II of Pima Road From Loop 101 Freeway to North of Thompson Peak Parkway**

**Requests:**

1. Adopt Resolution No. 6937 authorizing amendment of CM@Risk Contract No. 2005-199-COS with Achen-Gardner Engineering LLC for construction services at a Guaranteed Maximum Price of \$7,715,801 for the second phase of construction of Pima Road from the Loop 101 Freeway to north of Thompson Peak Parkway.
2. Adopt Resolution No. 6931 approving Development Agreement 2006-102-COS between the City and HF Three LLC concerning the dedication of the right-of-way for the Pima Road project.

**Related Policies, References:**

- Council awarded Engineering Services Contract No. 2003-114-COS to Entellus, Inc. for design of improvements to Pima Road from the Pima Freeway to Thompson Peak Parkway on June 16, 2003.
- Council adopted the Streets Master Plan in October 2003.
- Council awarded a construction contract to Desierto Verde, Inc. for salvaging, storing and planting native plant vegetation on September 6, 2005.
- Council awarded a CM@Risk Pre-Construction Services Contract No. 2005-167-COS to Achen-Gardner Engineering, LLC on November 15, 2005.

- Council awarded CM@Risk Contract No. 2005-199-COS with Achen-Gardner Engineering for construction services for Phase I of the construction of Pima Road from Loop 101 to Thompson Peak Parkway on February 21, 2006.  
**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)
13. **Job Order Contracting Construction Services Contract for New Building Construction or Building Improvements**  
**Request:** Authorize Job Order Contracting Services Contract No. 2006-093-COS with Sun Eagle Corporation for construction management services for new construction of public buildings or for major improvements to existing public buildings.  
**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)
14. **Construction Bid Award for Arabian Library Phase II Expansion**  
**Request:** Authorize Construction Bid Award No. 06PB107 to Redden Construction, Inc., the lowest responsive bidder, at their lump sum bid of \$7,377,500.  
**Related Policies, References:** On May 28, 2002 Council authorized Architectural Services Contract 2002-075-COS for the design and construction of the expansion of Arabian Library.  
**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)
15. **Landscape Architecture Services Contract for the Design of Chaparral Park Ballfield Complex Renovation**  
**Request:** Authorize Landscape Architectural Services Contract No. 2006-103-COS with EPG, in the amount of \$98,416.50 for the design of Chaparral Park Ballfield Complex Renovation.  
**Related Policies, References:** Council approved the 2006/2007 CIP Budget on June 6, 2006. The New CIP includes the South Ballfield Renovation Project.  
**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)
16. **CM@Risk Design Phase Services for Arizona Canal Phase II Southbank Project**  
**Request:** Authorize Construction Manager at Risk (CM@Risk) Design Phase Services Contract No. 2006-105-COS in the amount of \$60,950 to W.E. O'Neil Construction for the Arizona Canal Phase II Southbank Project.  
**Related Policies, References:**
- In March 2001, the Scottsdale Downtown Task Force recommended that the City "create a pedestrian attraction along the Arizona Canal" between Goldwater Boulevard and Scottsdale Road.
  - On January 7, 2002, Council approved design services contract with Design Workshop for the portion of Arizona Canal from Scottsdale Road to Goldwater Boulevard.
  - On December 8, 2003, Council awarded a construction contract to Archon, Inc., for Arizona Canal Phase I, which included the Marshall Way pedestrian and transit bridge and connections.
  - On May 17, 2004, Council entered into a development agreement with Stetson Canal LLC for a new mixed-use commercial project and public parking at Stetson Drive and Sixth Avenue, and modified the construction contract with Archon, Inc., to add construction of the portion of the public parking garage below Marshall Way.

- On April 5, 2005, Council approved a design services contract to prepare construction documents for Stetson Streetscape and Arizona Canal Phase II Southbank Project.
- On January 11, 2005, Council awarded a construction contract to Achen-Garnder Engineering to relocate utilities along Stetson Drive.

**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)

**17. Water Services Agreement For Lot 24A of the Carefree Ranch Homesteads Subdivision**

**Requests:**

1. Adopt Resolution No. 6898 authorizing the execution of Water Service Agreement No. 2006-032-COS for Lot 24A of the Carefree Ranch Homesteads subdivision.
2. Authorize Water Service Agreement No. 2006-032-COS for Lot 24A, Carefree Ranch Homesteads, Maricopa County Tax Assessor Parcel No. 219-47-067D, with the A & M Land Development, LLC.

**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov); Dave Mansfield, Water Resources General Manager, 480-312-5681, [dmansfield@scottsdaleaz.gov](mailto:dmansfield@scottsdaleaz.gov)

**18. Online Payments of Tax and License Fees**

**Request:** Authorize the award of Contract No. 2006-104-COS for the processing and handling of Internet (web) based payments for Transaction Privilege (Sales) Tax and regulatory license fees to Official Payments Corporation.

**Staff Contact(s):** Craig Clifford, Chief Financial Officer, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Brad Hartig, Chief Information Officer, 480-312-7615, [bhartig@scottsdaleaz.gov](mailto:bhartig@scottsdaleaz.gov)

**19. Proposed Changes to the City Privilege/Use Tax Code**

**Requests:**

1. Adopt Ordinance No. 3682 to amend the City Tax Code, Appendix C of the Scottsdale Revised Code, to implement state mandated changes to Sections 540, 542, 560 and Regulation 250.1 (regarding interest rate and refund procedures).
2. Adopt Ordinance No. 3683 to implement state mandated changes to Section 445 of the City Tax Code, Appendix C, of the Scottsdale Revised Code, to provide an exemption of income from low-income units established under Section 42 of the Internal Revenue Code.

**Related Policies, References:** The proposed changes will amend Sections 445, 540, 542, 560 and Regulation 250.1 of Appendix "C" of the Scottsdale Revised Code to reflect the proposed refund procedure changes, interest rate changes and low-income housing exemption.

**Staff Contact(s):** Craig Clifford, Chief Financial Officer, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov)

Mayor Manross opened public testimony.

**Lyle Wurtz**, 6510 E Palm Ln, 85257, asked about the location of the low-cost housing units.

Mayor Manross closed public testimony.

**20. Adoption of Property Tax and Streetlight Levies**

**Requests:**

1. Adopt Ordinance No. 3686 setting the FY 2006/07 property tax levy and rate.
2. Adopt Ordinance No. 3685 setting the streetlight property tax levy by district.

**References:** Arizona Revised Statutes, City Charter

**Staff Contact(s):** Craig Clifford, Financial Services General Manager/CFO, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Art Rullo, Budget Director, 480-312-2435, [arullo@scottsdaleaz.gov](mailto:arullo@scottsdaleaz.gov)

Mayor Manross opened public testimony.

**Lyle Wurtz**, 6510 E Palm Ln, 85257, asked why the streetlight fees had to be increased.

Mayor Manross explained that the State requires the levies to be formally adopted by City Council each year.

Mayor Manross closed public testimony.

**21. Purchase of Property-Casualty Insurance for the Period July 1, 2006 to July 2007**

**Requests:**

1. Authorize purchase of General Liability, Vehicle Liability and Public Officials Errors and Omission insurance protection of \$50,000,000 Limits of Liability per occurrence and annual aggregate coverage from various insurers for claims in excess of the City's self-insured retention amount of \$2,000,000 per occurrence for a cost of \$626,694.
2. Authorize purchase of Property insurance for approximately \$675 million of buildings, contents and equipment replacement values in excess of the deductible portions from the St. Paul/Travelers Insurance Company at a cost of \$590,164.
3. Authorize the purchase of Workers' Compensation insurance from Midwest Employers Casualty Company in excess of the City's proposed self-insured retention amount of \$750,000 for a cost of \$129,976.
4. Authorize purchase of Scottsdale Airport Liability and Hangarkeepers' Legal Liability insurance of \$100,000,000 per occurrence and annual aggregate limits of Airport Liability coverage and \$100,000,000 for Hangarkeepers' Legal Liability coverage from insurers ACE/Lloyds at a cost of \$54,434.

**Staff Contact(s):** Craig Clifford, Chief Financial Officer, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov)

**22. Intergovernmental Agreement With Scottsdale Public Schools for Drug, Alcohol and Violence Prevention Services**

**Request:** Adopt Resolution No. 6844 which authorizes Intergovernmental Agreement No. 2006-015-COS, which will provide funding in the amount of \$253,978, to fund drug, alcohol and violence prevention education, as well as other student support services, in all 33 Scottsdale schools, for fiscal year 2006-2007.

**Related Policies, References:** City Council adopted Resolution No. 6655 on June 21, 2005, which authorized Intergovernmental Agreement No. 2005-041-COS in the amount of \$253,978 to fund alcohol, drug and violence prevention services in 33 Scottsdale schools, including the School District's alternative school, for fiscal year 2005/2006. The City has previously entered into intergovernmental agreements to provide these services for fiscal years 1999/2000 through 2004/2005.

**Staff Contact(s):** Debra Baird, Community Services General Manager, 480-312-2480, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov)



**23. Renewal of Contract with Ayers & Brown, P.C. for Legal Fees**

**Request:** Adopt Resolution No. 6900 authorizing the Mayor to execute Contract No. 2004-035-COS-A1, an outside counsel contract for legal fees in a maximum amount of \$300,000, and Contract No. 2006-109-COS, an outside counsel contract for costs in a maximum amount of \$200,000 with the law firm of Ayers & Brown, P.C., for legal services and costs regarding representation of the City of Scottsdale in *City of Scottsdale v. Edmunds-Toll Construction Company, et al.*, CV2004-001025, a condemnation action brought to acquire property for the McDowell Sonoran Preserve gateway.

**Related Policies, References:** Resolution No. 6484

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-7794, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov); Bruce Washburn, Assistant City Attorney, 480-312-2405, [bwashburn@scottsdaleaz.gov](mailto:bwashburn@scottsdaleaz.gov)

**24. Gila River Indian Community Amended and Restated Water Rights Settlement Agreement**

**Requests:**

1. Adopt Resolution No. 6930 declaring Amendment No. 1 to the Amended and Restated Gila River Indian Community Water Rights Settlement Agreement a public record.
2. Adopt Resolution No. 6925 approving and authorizing the Mayor to execute Amendment No. 1 to the Amended and Restated Gila River Indian Community Water Rights Settlement Agreement No. 2003-049-COS-A1, an agreement among the City of Scottsdale, the Gila River Indian Community and various other state and federal parties. The Settlement Agreement settles the water rights claims of the Gila River Indian Community. Amendment No. 1 to the Settlement Agreement corrects certain errors and omissions to two exhibits involving parties other than the City and that are part of the overall settlement.

**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)

**25. Settlement of Papago Plaza v. City of Scottsdale**

**Requests:**

1. Adopt Resolution No. 6940 authorizing final settlement agreement (No. 2006-111-COS) in the amount of \$62,127 for court-ordered partial damages, and \$36,125 in additional settlement monies to resolve a lawsuit entitled *Papago Plaza v. City of Scottsdale*, Cause No. CV2004-006696, currently pending in Maricopa County Superior Court.
2. Authorize a budget contingency transfer from the General Fund to the City Attorney's Office in the total amount of \$98,252 to fund the settlement.

**Related Policies, References:** Scottsdale Revised Code §§ 16-201, *et seq.*

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-7794, [drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov)

**26. Settlement of Lawsuit Against Defendant Price Waterhouse in City of Scottsdale et. al v. Bank One, et. al**

**Request:** Adopt Resolution No. 6939 authorizing the NCFE Loss Recovery Coalition and/or the State of Arizona to enter into a settlement on the City of Scottsdale's behalf resolving claims pending against Price Waterhouse in *City of Scottsdale, et. al, v. Bank One, et. al*, Cause No. CV03-1220-PHX-ROS, currently pending in United States District Court in Ohio.

**Reference:** Intergovernmental Agreement Contract No. 2003-112-COS

**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-7794,  
[drobberson@scottsdaleaz.gov](mailto:drobberson@scottsdaleaz.gov)

**27. Professional Benefits Consulting Services for Self-Funded Medical and Dental Plans**

**Request:** Authorize the award of Contract No. 2006-107-COS for professional benefits consulting services for the City's self-funded medical and dental plans to Mercer Health and Benefits.

**Related Policies, References:**

- April 4, 2006 City Council discussion and approval of premium contribution rates and plan design changes for employee health and dental plans for FY 2006/07.
- June 20, 2006 request to City Council to authorize a contract for professional auditing services to audit the City's self-funded medical and dental plans.

**Staff Contact(s):** Neal Shearer, Assistant City Manager, 480-312-2604,  
[nshearer@scottsdaleaz.gov](mailto:nshearer@scottsdaleaz.gov); Craig Clifford, Chief Financial Officer, 480-312-2364,  
[cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Teri Traaen, Human Resources General Manager, 480-312-2615, [ttraaen@scottsdaleaz.gov](mailto:ttraaen@scottsdaleaz.gov)

**28. Professional Auditing Services for Self-Funded Medical and Dental Plans**

**Request:** Authorize the award of Contract No. 2006-108-COS for the audits of the City's self-funded medical (including prescriptions) and dental plans to Chapman Kelly, Inc.

**Related Policies, References:**

- March 21, 2006 City Council discussion of premium contribution rates and plan design changes for employee health and dental plans for FY 2006/07.
- April 4, 2006 City Council discussion and approval of premium contribution rates and plan design changes for employee health and dental plans for FY 2006/07.
- June 20, 2006 request to City Council to authorize a contract for professional benefits consulting services.

**Staff Contact(s):** Neal Shearer, Assistant City Manager, 480-312-2604,  
[nshearer@scottsdaleaz.gov](mailto:nshearer@scottsdaleaz.gov); Craig Clifford, Chief Financial Officer, 480-312-2364,  
[cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov); Teri Traaen, Human Resources General Manager, 480-312-2615, [ttraaen@scottsdaleaz.gov](mailto:ttraaen@scottsdaleaz.gov)

**29. Associate City Judge Compensation**

**Request:** Approve an increase in Associate City Judge base salary to \$123,593.60 annually, effective at the start of FY 2006/2007.

**Related Policies, References:** Scottsdale Revised Code Section 9-2 provides that the City Council will determine the compensation of the City Judge and all other judges of the City Court.

**Staff Contact(s):** Teri Traaen, General Manager Human Resources, 480-312-2615,  
[ttraaen@scottsdaleaz.gov](mailto:ttraaen@scottsdaleaz.gov)

**30. Network Vulnerability Assessment**

**Request:** Authorize the award of Contract No. 2006-090-COS to conduct a comprehensive network vulnerability assessment of the City of Scottsdale's network and computing infrastructure to Eide Bailly Technology Consulting for a total amount of \$48,000.

**Staff Contact(s):** Brad Hartig, Chief Information Officer, 480-312-7615,  
[bhartig@scottsdaleaz.gov](mailto:bhartig@scottsdaleaz.gov)

**30A. Lease Agreement for Commercial Office/Counter Space at the Scottsdale Airport Terminal Building**

**Request:** Authorize Lease Agreement No. 2006-033-COS with Aviation Ventures, Inc., dba Vision Air, for commercial office/counter space (Suites 104 and 105) at the Scottsdale Airport Terminal Building.

**Staff Contact(s):** Mary O'Connor, General Manager Transportation, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)

**MOTION AND VOTE – CONSENT AGENDA**

COUNCILMAN LITTLEFIELD MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1 THROUGH 30A. VICE MAYOR LANE SECONDED THE MOTION, WHICH CARRIED 7-0.

**REGULAR AGENDA      ITEMS 31-33**

**31. Colaric Abandonment (Item No. 31 To Be Continued to July 10, 2006)**

COUNCILMEMBER DRAKE MOVED TO CONTINUE ITEM 31 TO JULY 10, 2006.  
COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

**32. Annual Financial Participation Agreement with Scottsdale Cultural Council**

**Request:** Authorize general fund budget support for the Scottsdale Cultural Council ("Cultural Council") and allow the Cultural Council to continue to administer the City's arts and cultural programs according to the terms of the Management Services Agreement. It also authorizes several supplemental funding requests from the Cultural Council. All of these requests, except for the SMOCA collection, are one-time only allocations for FY 2006/07. Any extension of the Theater 4301 allocation must return to the City Council for approval. This action also approves the administrative budget to be drawn from capital project P8740 Art in Public Places for Scottsdale's Public Art Program for FY 2006/07.

**Staff Contact(s):** Craig Clifford, Chief Financial Officer, 480-312-2364, [cclifford@scottsdaleaz.gov](mailto:cclifford@scottsdaleaz.gov)

Frank Jacobson, President and CEO of Scottsdale Cultural Council, provided a presentation outlined as follows:

- Multi-Year Budgetary Goals
- FY 2007 Revenue (Total \$12,103M)
- FY 2007 Expenses
  - Expense Budget Before Depreciation \$11.5M
  - Personnel Costs \$4.6M
- SMOCA Program
- Center for the Performing Arts Program
- Scottsdale Public Art Program
  - Public Art Budget \$728,013

Council discussion:

- Amphitheater concerts scheduled for this year were reviewed.
- Scottsdale Center for the Arts staff explained that using the amphitheater as a venue presents significant problems in regard to inclement weather. Should an alternative site

not be available on short notice, ticket holders would receive a refund, however the artist would still have to be paid.

- The Council expressed their appreciation to Mr. Jacobson for his many years of service to the community. Mr. Jacobson is scheduled to leave his position at the end of June.

### **MOTION AND VOTE – ITEM 32**

COUNCILMAN ECTON MOVED FOR APPROVAL OF ITEM 32, THE ANNUAL FINANCIAL PARTICIPATION AGREEMENT WITH SCOTTSDALE CULTURAL COUNCIL.  
COUNCILMEMBER DRAKE SECONDED THE MOTION, WHICH CARRIED 6-1, WITH COUNCILMAN LITTLEFIELD DISSENTING.

### **33. Next Bar and Nightclub Conditional Use Permit Requests:**

1. Approve a conditional use permit for a bar on a 5,137+/- square feet existing building located at 7111 E. 5<sup>th</sup> Avenue with Central Business District downtown Overlay (C-2 DO) zoning.
2. Adopt Resolution No. 6869 affirming the conditional use permit for a two-year period and authorizing the lease of parking spaces from the in-lieu parking program and providing for a period of one year to develop a daytime use.

**Location:** 7111 E. 5<sup>th</sup> Avenue

**Related Policies, References:** 28-UP-2004, General Plan, Downtown Plan

**Staff Contact(s):** Frank Gray, General Manager Planning and Development Services, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

Randy Grant, Chief Planning Officer, provided a presentation outlined as follows:

- History/Operational Characteristics
  - Business currently opens at 9:00 PM and closes at 2:00 AM nightly.
- Request for Conditional Use Permit for Bar Use
- Impact Analysis
  - Policy Implications (desire to have no new bars west of Scottsdale Road in this area)
  - Traffic
  - Parking (applicant requesting approval to lease 12 additional spaces through City's in-lieu program)
  - Police (84 calls, 26 reports in the past year)
  - Code Enforcement
- State Series 6 Licenses in Downtown
- Specific Conditional Use Permit Analysis
  - The use shall not disrupt existing balance of daytime and nighttime uses
- Proposed Operational Limits
  - The applicant will return with a business plan which will include a traditional daytime use at the location within one year, and will be implemented within two years. (Planning Commission recommendation)
  - The use permit will only be valid for two years, at which time the applicant may re-apply for an extension. This application will include public hearings before both the Planning Commission and City Council.

Council discussion:

- Staff and the applicant agreed a restaurant would be an appropriate daytime use.
- Council members expressed a desire to have the business plan and implementation completed sooner than indicated in the stipulation.
- Concern was expressed that the Conditional Use Permit would compound parking problems in downtown.
- There was some question regarding the appropriateness of the Council approving a Conditional Use Permit based on criteria that would not be required for another two years.
- In discussion of police activity in this area, Council members requested that reports indicate calls for service that are attributable to the business in question.
- It was suggested that this business creates a dead spot and disrupts the flow of pedestrian traffic.
- There was discussion regarding the goal to make the Craftsman Court area a retail district during the day, and the fact that other merchants in the area are unhappy with this use. It was pointed out that while there is no adopted policy or plan for that goal, it is the intent of the Conditional Use Permit criteria to promote daytime activities.
- Some Council members said the Use Permit criteria did not appear to be met in regard to disruption of the existing balance of daytime and nighttime uses. Staff believe the Use Permit criteria have been met, and noted there are other businesses that are closed during some daytime hours. The stipulations would promote and re-establish daytime activity.
- Mayor Manross believes it would be a huge financial commitment to implement the restaurant in two years, and she is comfortable with the stipulations.
- Vice Mayor Lane believes the stipulations address the issues, and stated that if this Use Permit is denied, no future plan would be in place.

**MOTION AND VOTE – ITEM 33**

VICE MAYOR LANE MOVED TO APPROVE ITEM 33, THE NEXT BAR AND NIGHTCLUB CONDITIONAL USE PERMIT. MAYOR MANROSS SECONDED THE MOTION, WHICH FAILED 2-5, WITH COUNCIL MEMBERS DRAKE, ECTON, LITTLEFIELD, MCCULLAGH, AND NELSEN DISSENTING.

**MAYOR AND COUNCIL ITEMS**

**34. Citizen Petition Requesting Reconvening the ASU Scottsdale Ad Hoc Working Group**

**Request:** Consideration of a citizen petition requesting the City Council reconvene the ASU Scottsdale Ad Hoc Citizens Advisory Working Group to study the SkySong Phase III proposal and table further Council discussion until after the working group has conducted public hearings and provides the City Council with its findings.

Mayor Manross opened public testimony.

**George Knowlton**, 8701 E Valley View Rd, 85250, urged that the Ad Hoc Committee be reconvened to review every design and financial plan of the SkySong project.

**Rita Saunders-Hawranek**, 5615 N 78<sup>th</sup> Wy, 85250, believes the Council's summer recess should be used to review issues of parking, congestion, circulation, and to address the issue of residential units with the neighborhoods.

**John Washington**, 3518 N Chambers Ct, 85151, believes there have been omissions in providing information to the public, and that the timing of the item just before the Council break seems suspicious. He encouraged careful consideration of the proposal.

**Cary Ley**, 2571 N Miller Rd, 85257, presented documents and minutes from the Ad Hoc Committee, pointing out several instances where residential use had been suggested. Mr. Ley believes the petition should be denied since its premise is flawed.

Mayor Manross closed public testimony. Two additional comment cards were received from citizens in support of Item 34, but not wishing to speak.

Council discussion:

- Ed Gawf verified that the Ad Hoc Committee had recently met to provide feedback to the Council on the residential proposal.
- Some Council members expressed the need to keep this project moving and not to delay the parking structure.
- Most Council members agreed the terms of the petition had been met with the recent input from the Ad Hoc Committee. Further citizen input can take place when the agreement comes before the Council in July.
- Councilman Nelssen believes the petition is about slowing down the project and getting a better product. He suggested further discussion over the summer.

#### **MOTION AND VOTE – ITEM 34**

COUNCILMAN MCCULLAGH MOVED TO TAKE NO FURTHER ACTION ON THE PETITION REQUESTS. COUNCIL MEMBER DRAKE SECONDED THE MOTION, WHICH CARRIED 6-1, WITH COUNCILMAN NELSEN DISSENTING.

#### **35. Citizen Petition Requesting Appointment of a City Treasurer**

**Request:** Consideration of a citizen petition requesting the City Council act in accordance with the provisions of the City Charter and appoint a treasurer to fill the charter position of City Treasurer.

Mayor Manross opened public testimony.

**Bill Crawford**, 7351 E Valley View Rd, 85250, expressed support of the petition, saying this would be a very positive move on the Council's part. Mr. Crawford believes economics are very different now than when the Charter was written, and it would be in the City's best interest to have an independent Treasurer.

Mayor Manross closed public testimony. One additional comment card was received from a citizen in support of Item 35, but not wishing to speak.

Council discussion:

- Some Council members agreed there is no need to have a separate Treasurer position.
- There is concern the position would become political and add a layer of bureaucracy.

- Some Council members believe the City's strong financial plan, exemplary financial management, and AAA bond rating indicate that a treasurer will provide no additional value.
- It was pointed out that no other city in the Valley has a separate Treasurer position, and that the Scottsdale City Charter does not prohibit the combining of City Treasurer duties with those of another officer.
- Vice Mayor Lane believes it would be wise to establish a citizens task force to study the issue.
- Some Council members believe the issue of appointing a Treasurer needs attention and deserves an open discussion. They requested a job description to review.

### **MOTION AND VOTE – ITEM 35**

COUNCILMAN NELSEN MOVED TO AGENDIZE THE REQUEST FOR DISCUSSION AND POSSIBLE ACTION TO A LATER DATE. COUNCILMAN LITTLEFIELD SECONDED THE MOTION, WHICH CARRIED 4-3, WITH MAYOR MANROSS, COUNCILMEMBER DRAKE, AND COUNCILMAN ECTON DISSENTING.

#### **36. Citizen Petition Concerning Ordinance No. 3658 and Resolution No. 6802 Regarding the Regulation of Sexually Oriented Businesses**

**Request:** Consideration of a citizen petition requesting Council adopt a proposed ordinance and resolution in lieu of Scottsdale Ordinance No. 3658 and Resolution No. 6802 previously adopted by the Council on December 12, 2005 and referred to a vote set for September 12, 2006.

Mayor Manross opened public testimony.

**John Weston**, Citizens Against Bad Government, 12121 Wilshire Blvd, #900, Los Angeles, CA, 90025, spoke in support of the petition and told the Council that the proposed compromise ordinance is acceptable to the Citizens Against Bad Government committee, as well as the two relevant businesses affected by the referred provisions of the ordinance. Mr. Weston does not believe the ordinance is necessary. He said there has been no increase in crime, decrease in property value, nor is there any danger of proliferation of adult businesses in Scottsdale; all reasons cited for the ordinance. Mr. Weston said either result of the referendum would not bring finality.

**Bill Crawford**, 7351 E Valley View Rd, 85250, urged Council to consider the compromise ordinance. Mr. Crawford said municipalities should not dictate morals.

**John Nichols**, 10450 E Desert Cove Av, 85259, said the sex industry has targeted Scottsdale, and if the standards were relaxed then more of these businesses would arrive. He urged Council to deny the petition and let the public vote.

**Richard Hertzberg**, 6253 N 51<sup>st</sup> Pl, Paradise Valley, 85253, said the compromise ordinance would bring Scottsdale in line with case law, and would be tougher than Phoenix's ordinance. In addition, it would eliminate a costly and contentious election. Mr. Hertzberg believes there is no way another strip club or adult book store could meet the criteria to locate in Scottsdale.

**Joel Wright**, Citizens Against Bad Government, no address given, discussed surveys he had completed which indicate that only 30% of the voters have confidence in the leadership of the City. He asked Council to take this opportunity to stop this divisive issue.

**David Friend**, 28700 N Pima Rd, 85260, encouraged Council to keep their stand on this issue and let it go before a public vote.

**George Knowlton**, 8701 E Valley View Rd, 85250, said the City could not legislate morality, and that the community should not be divided any longer.

**Peter Gentala**, The Center for Arizona Policy, 11000 N Scottsdale Rd, #120, 85254, urged Council to reject this petition and let the issue go to a vote. Mr. Gentala said the previous ordinance was outdated, and there are policies similar to the new ordinance in place throughout the country.

**Steve Capobres**, 10670 E Roseway Ln, 85255, said the people should be allowed to weigh in on this issue, and the City has every right to regulate these businesses.

Mayor Manross closed public testimony. Four additional comment cards were received from citizens in support of Item 36, but not wishing to speak.

Council discussion:

- Council members agreed the proposed modified ordinance would not be a compromise, and would actually return the City to some of the 1995 ordinance provisions.
- It was stated that the referendum petition signers expected a voice, so the voters should decide.
- City Attorney Robberson explained that she had met with Mr. Weston and provided him with a list of locations in Scottsdale where sexually oriented businesses could be located, if requirements were met. Staff added that a use permit would be required.
- Councilman Nelssen stated he would have liked to have a resolution and would support further discussion with the petitioners; but he could not accept the compromise ordinance.

### **MOTION AND VOTE – ITEM 36**

COUNCILMAN ECTON MOVED TO TAKE NO FURTHER ACTION ON THE PETITION REQUESTS. COUNCIL MEMBER DRAKE SECONDED THE MOTION, WHICH CARRIED 7-0.

### **37. Citizen Petition Regarding Residential Requirements for Charter Officers**

**Request:** Consideration of a citizen petition requesting the City Council:

- Determine whether the Charter Officers are in full compliance with the residency requirements of Article 4, Section 1, of the City Charter; and, if a determination is made that a Charter Officer is not in full compliance, to immediately vacate that office and appoint a qualified and qualifying replacement.
- Immediately make public any legal opinion, case law and/or opinion of the Attorney General as a basis to waive or modify the residential requirements for the City Attorney.
- Use the procedures set forth in the Code of Ethics, providing for the use of a three person impartial panel, to rule on the matter.



Mayor Manross opened public testimony.

**George Knowlton**, 8701 E Valley View Rd, 85250, read a letter of support (attached) into the record from Jim Derouin, who was unable to attend. Mr. Knowlton also referenced a letter from Attorney Donald M. Peters, which provided an opinion that the City Attorney is subject to the residency requirement of the Charter. Mr. Knowlton said the City circumvented the rules and should grant the petition requests.

**Joy Borum**, 7748 E Osborn Rd, 85251, expressed that most people would rather have the Council deliberating on other decisions than this one, and urged that they 'stick to their guns'.

Mayor Manross closed public testimony. One additional comment card was received from a citizen in support of Item 37, but not wishing to speak.

Council discussion:

- Several council members agreed that it is understandable to draw the conclusion that the City Attorney is required to be a Scottsdale resident; however, the Council feels they received reasonable advice and made their decision regarding the residency requirement for the City Attorney on that basis.
- Some Council members believe it would give the public some peace of mind if a copy of the legal opinion or minutes of the Executive Session were released to the public.
- Deputy City Attorney Donna Bronski said Council is bound by law not to release copies of Executive Session minutes. However, other options to get information to the public could be explored if Council wanted to waive attorney/client privilege.
- Some Council members believe more discussion is warranted to avoid any appearance of impropriety.
- It was pointed out that the Council's public vote on the Attorney's contract was unanimous, and there was ample opportunity for issues to be raised at that meeting.

### **MOTION AND VOTE – ITEM 37**

COUNCILMAN ECTON MOVED TO TAKE NO FURTHER ACTION ON THE PETITION REQUESTS. VICE MAYOR LANE SECONDED THE MOTION, WHICH CARRIED 5-2, WITH COUNCILMEMBERS LITTLEFIELD AND NELSEN DISSENTING.

### **38. Citizen Petition Regarding Mr. Richard Funke's Land Exchange Proposal**

**Request:** Consideration of a citizen petition requesting that the City Council discuss the following matters before the City Council summer break:

- The City's original request to incorporate a 150-car public parking facility within Mr. Funke's future retail development located at Indian School Road and Marshall Way.
- Alternate locations to the City's planned water booster station.
- A land exchange using the western portion of Mr. Funke's property along Indian School Road for the City's planned pump station.

**Richard Funke**, 4409 N 66th St, 85251, asked to amend his petition by removing the request regarding the parking facility, and that the council consider the petition only in regard to the booster station location.

Mayor Manross opened public testimony.

**Darlene Petersen**, 7327 E Wilshire, 85257, spoke in support of the booster station being adjacent to the Coach House. Ms. Petersen believes it will ruin the ambience of the Horseshoe Falls area if it is placed there.

Mayor Manross closed public testimony. Six additional comment cards were received from citizens not wishing to speak: five in opposition and one in support of Item 38.

Council discussion:

- Assistant City Manager Roger Klingler stated that the booster station is needed at the location owned by the City, and the project should proceed. Mr. Klingler explained that the design will be appropriate to the location and, if desired, amenities could be added later.
- Staff verified the design of the booster station will be coming before Council on July 11, and discussion of the decision process for the location could occur at that time.
- Some Councilmembers requested that the July 11 agenda item not be limited to a single location.
- Mr. Funke agreed to do anything possible to accelerate the project, and hoped to meet with staff very soon.

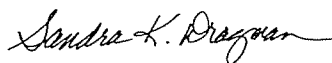
Council directed staff to amend the July 11, 2006 booster station agenda item to include analysis of the various locations considered by staff.

**CITY MANAGER'S REPORT** - None

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 9:07 P.M.

**SUBMITTED BY:**



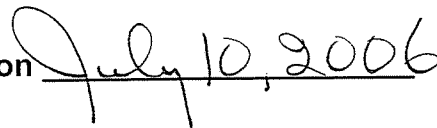
**Sandy Dragman**  
Recording Secretary

**REVIEWED BY:**



**Carolyn Jagger**  
City Clerk

Officially approved by the City Council on

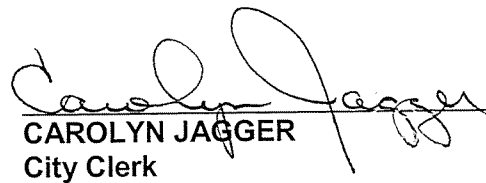


### CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 20th day of June 2006.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this 10<sup>th</sup> day of July 2006.

  
CAROLYN JAGGER  
City Clerk

Madame Mayor and Members of the Council.

I am out of state and unable to be present this evening, but I have been following with interest the issue of (a) whether the position of City Attorney is a City Officer pursuant to the Scottsdale City Charter and (b) whether you will enforce the residency obligation for the position as required by the City Charter. The issue is not whether Debbie Robberson is a fine person and lawyer; the issue is whether she meets the residency requirements of the City Charter in order to hold her position. The answer is that she does not.

The City refuses to release the phantom, "secret" legal opinion on which the Council based its action. I am beginning to wonder if it even was in writing. If it is in writing, there is no reason you cannot release it. Please do so.

Ms. Roberson's own contract, I understand, calls for her to hold the "Charter Office" of City Attorney. Doesn't that tell you that her office is that of a City Officer? Or was it merely sloppy, or convenient, legal work that the City Attorney's Office tells you that the City Attorney is not a City Officer, but leaves that provision in her contract?

Your oath is to honor the law--all laws, not just when it is convenient for you to do so. Complying with the law is inconvenient sometimes. But we can't pick and choose what laws we are going to enforce. If you want Ms. Robberson as our City Attorney, issue her a new contract subject to her becoming a resident within six months. Don't start skirting the law. If you do, how are you going to decide which you are going to ignore and which you are going to enforce. Is that what the "West's Most Western Town" means--i.e., that we only enforce those laws that are convenient for us to enforce?

Finally, let me say that I practiced law with Attorney Peters for almost ten years. He is a fine legal scholar and tenacious litigator. His opinion is pretty clear and that is that your action was illegal. Please reverse yourself and demonstrate your commitment to lawful conduct.

Jim Derouin  
Steptoe & Johnson LLP  
201 E. Washington Street, Suite 1600  
Phoenix, AZ 85004-2382  
Tel: 602-257-5237; Fax: 602-257-5299  
jderouin@steptoe.com

12827 N. 130th Place  
Scottsdale, AZ 85259